

REPRESENTATIVE FOR PETITIONER:
Paul F. Lindemann, KREIG DEVAULT LLP

REPRESENTATIVES FOR RESPONDENT:
Steve Carter, ATTORNEY GENERAL OF INDIANA
Linda I. Villegas, DEPUTY ATTORNEY GENERAL

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

PAUL F. & JANET R. LINDEMANN,	)	Petition No.:	49-800-00-1-5-00646R
)		
Petitioner,	)	County:	Marion
)		
v.	)	Township:	Washington
)		
WASHINGTON TOWNSHIP ASSESSOR,	)	Parcel No.:	8057887
)		
Respondent.	)	Assessment Year:	2000
)		

On Remand from the Indiana Tax Court
Cause No. 49T10-0204-TA-39

REFERAL TO WASHINGTON TOWNSHIP ASSESSOR

The Board having reviewed the decision of the Tax Court in the above matter dated November 19, 2003 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the Washington Township Assessor to make another assessment consistent with the Tax Court decision, for the following reasons.

Facts and Procedural History

1. On January 3, 1996, the Lindemanns filed a Petition for Review of Assessment (Form 130) with the Marion County Board of Review (BOR) alleging that the “B+2” grade factor assigned to their property was too high. On October 25, 1996 the BOR denied the Lindemanns’ appeal. The Lindemanns appealed the BOR’s denial to the State Board of Tax Commissioners (State Board). While the appeal was pending with the State Board, the BOR issued a second determination in which it reduced the grade factor of the Lindemanns’ home to “B-1.”
2. On December 15, 2000, the Assessor sent the Lindemanns a Form 11 Notice of Assessment (Form 11) indicating that the grade of their house had been raised from a “B-1” to “B+2” for the 2000 tax year. The Form 11 explained that the increase was based on a comparison of grades with other homes in the Lindemanns’ neighborhood.
3. The Lindemanns appealed to the Marion County Property Tax Board of Appeals (PTABOA). The PTABOA affirmed the “B+2” grade increase.
4. Pursuant to Ind. Code § 6-1.1-15-3, Petitioner filed a Form 131 petition for Assessment Year 2000 petitioning the Board to conduct an administrative review of that petition. The Board denied the Lindemanns’ claim on March 15, 2002.
5. The Petitioner filed an original tax appeal on April 15, 2002. On June 30, 2003, the Tax Court heard oral arguments. The Petitioner raised one issue for review. Whether the grade of the subject building should be a “B-1.”

Discussion of Remanded Issue

6. The Lindemanns argue that given their successful appeal before the BOR in 1996, the Assessor is now estopped, under the principles of res judicata, from raising their grade to “B+2” before the next general reassessment absent a change in circumstances.

7. The Tax Court held the Lindemanns are correct. The Tax Court held that both the Lindemanns and the Assessor had the opportunity to present evidence to the BOR and either could have appealed the 1996 decision to the State Board, and ultimately, the Tax Court. The Tax Court held the BOR's 1996 determination of a "B-1" grade bars any subsequent litigation on the same cause of action by the same parties until the next general reassessment, absent any changed circumstances.

8. The Tax Court reversed the decision of the Board and Remanded the case to the Board to instruct the local assessing officials to reinstate the "B-1" grade until there is either a change in the subject property's circumstances or a general reassessment.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Washington Township Assessor to make another assessment consistent with the Tax Court decision, this ____ day of _____, 2004.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.